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Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, SECOND SESSION

Reprinted below and on the following pages are excerpts from the Congressional Record of the proceedings in the U.S. Congress when it considered and approved the conference report on the Fair Credit Reporting Act. Appearing first is the conference report, presented in the House on October 8, 1970, followed by the Senate and House proceedings.

CONFERENCE REPORT ON H.R. 15073, BANK RECORDS AND FOREIGN TRANSACTIONS; CREDIT CARDS; CONSUMER CREDIT REPORTING

CREDIT REPORTING AGENCIES

Title VII—Provisions Relating to Credit Reporting Agencies

The House offered the following amendments to the provisions of the Senate-passed bill, which added to the Consumer Credit Protection Act (82 Stat. 146) a new title VI, dealing with consumer credit reporting.

Definitions and Rules of Construction

The House amendment added the definition of the term "medical information" in the new section 603(i) in restricting this type of information from being examined by the consumer when he attains access to his file as authorized in section 609. The rationale was that raw medical information should only be tendered with the counsel of a physician or other medically trained personnel. The Senate bill contained no similar provision, but was agreed to by the conferees.

The House conferees also intend that the definitions of "consumer reporting agency" not include insured financial institutions whose lending officers merely relate information about an individual with whom they have had direct financial transactions.

Your conferees also intend that the definition of "consumer credit report" not include protective bulletins issued by local hotel and motel associations, and circulated only to their members, dealing solely with transactions between members of the associations and persons named in the report.

Obsolete Information

The House amendments, which were agreed to, were (1) the deletion of the phrase "or until the governing statute of limitations has expired, whichever is the longer period" from section 605(a)(4) in order not to permit the defeat of the intent of the section to restrict the reporting of delinquent account information to seven years by an inordinately long statute of limitations of the type known to exist in certain jurisdictions; and (2) the raising of the limit on life insurance to $50,000 from $25,000 in section 605(b)(2), which exempts life insurance investigations involving amounts above the limit from the section's prohibitions on the reporting of outdated information.

While no amendment was agreed to in section 605(b)(3) it was clearly understood that the conferees of both Houses intend the annual salary limitation of $20,000 to apply to initial or starting salaries in the employment involved.

Compliance Procedures

The House offered an amendment, which was agreed to by the conferees, to add the requirement that consumer reporting agencies must follow reasonable procedures to assure maximum possible accuracy of the information on an individual in all consumer credit reports.

The House conferees intend that this requirement shall include the duty to differentiate between types of individual bankruptcies (e.g., between straight bankruptcies and chapter XIII wage earner plans), and that the disposition of a wage earner plan where the consumer conscientiously carries out his responsibilities under it should be duly noted.

Disclosure to Consumers

The House offered the amendment to delete the words "The nature and substance of" in section 609(1). The intent was to permit the consumer to examine all the information in his file except for sources of investigative information, while not giving the consumer the right to physically handle his file.

The Senate conferees did not agree to this amendment, contending that the existing language already accomplished this result. The conferees of both Houses intend that this important provision be so interpreted.

The House offered the amendment to section 609(2), which was agreed to by the conferees, to permit the plaintiff to obtain the sources of investigative information under the appropriate discovery procedures in the court in which an action is brought.

Requirements on users of consumer reports

The House amendment, which was agreed to by the conferees, deleted the requirement in section 615(a) that the consumer be required to submit a written request after denial of credit, insurance, or employment to obtain the name and address of the consumer reporting agency making the report. The conference substitute now requires the user of the report to convey this information to the consumer immediately upon denial of credit, insurance, or employment.

Civil liability for willful noncompliance

The House amendment to section 616(2), which was agreed to by the conferees, removed the floor and ceiling on the amount of punitive damages the court may allow for willful noncompliance with the new title.

Civil liability for negligent noncompliance

The House amendment to section 617, which was agreed to by the conferees, would establish liability for actual damages sustained as a result of ordinary negligence, instead of only as a result of gross negligence as provided in the Senate bill.

Jurisdiction of courts: Limitation of actions

The House amendment to section 618, which was agreed to by the conferees, would stop the statute of limitations from running, where the defendant has willfully misrepresented any information required under the new title which is material to the establishment of the defendant's liability, until discovery by the individual of the misrepresentation.

The conference substitute also permits a suit in any appropriate U.S. district court without regard to the amount in controversy.

Unauthorized disclosures by officers or employees

The House amendment added a new section 620, which was agreed to by the conferees, to provide criminal penalties for willfully providing information on an individual to an unauthorized person by officers or employees of consumer reporting agencies.

WRIGHT PATMAN,
WILLIAM A. BARRETT,
LEONOR K. SULLIVAN,
HENRY S. REUSS,
FLORENCE P. DWYER,
Managers on the Part of the House.

Although the Senate had passed S.823 in November, 1969, it was necessary for it to approve the conference report. The original bill was amended by the conferees and following are excerpts of the Senate proceedings on October 9, 1970 when that body considered and approved the report.

BANK RECORDS AND FOREIGN TRANSACTIONS; CREDIT CARDS; CONSUMER CREDIT REPORTING—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15073) to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in U.S. currency be reported to the Department of the Treasury, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. HUGHES). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(For conference report, see House proceedings of Oct. 8, 1970, pp. H9892–H9898 CONGRESSIONAL RECORD.)

Mr. PROXMIRE. Mr. President, a House-Senate conference committee completed action on this bill on Tuesday, October 6. In addition to resolving the differences between the House and Senate versions of the foreign bank secrecy legislation, the House conferees also accepted with amendments the previously passed Senate versions of the fair credit reporting bill—S. 823—and a bill regulating unsolicited credit cards—S. 721. These provisions were added by the Senate to H.R. 15073 in order to expedite action in the current 91st Congress.

The Senate also added the provisions of S. 3154, the Urban Mass Transit Act, to H.R. 15073; however, this language was deleted by the conference since the Congress has already completed action on S. 3154 and it has been sent to the President for his signature.

Mr. President, by combining three legislative proposals into a single package, I believe the Senate-House conference committee has executed a triple play for the American consumer. The foreign bank secrecy bill will provide law enforcement authorities with greater evidence of financial transactions in order to reduce the incidence of white collar crime. The bill was particularly directed at obtaining more information on secret foreign bank accounts by U.S. citizens or residents. These secret foreign bank accounts have enabled white collar criminals to avoid the payment of income taxes and flout our securities laws with virtual impunity.

The Senate provisions on credit cards agreed to by the House conferees will stop the unsolicited distribution of credit cards and limit a consumer's liability for a lost or stolen credit card to $50. In addition, the bill agreed to by the conference committee will make it a Federal crime to make purchases of more than $5,000 on a credit card without the permission of the holder.

In addition, the legislation agreed to by the conference includes an amended version of the Fair Credit Reporting Act passed by the Senate last November. This legislation would give consumers access to all of the information in their credit files and enable them to correct inaccurate or misleading information. Whenever a person is turned down for credit or insurance or employment because of an adverse credit report he would have to be given the name and address of the credit reporting agency. The bill also establishes safeguards to preserve the confidentiality of credit information in credit bureau files and to protect consumers against an undue invasion of their right to privacy.

CREDIT REPORTING

Mr. President, the Senate passed a fair credit reporting bill on November 6, 1969. The Subcommittee on Consumer Affairs of the House Committee on Banking and Currency held hearings on this legislation but has not yet taken action. Based upon the record developed during the House hearings, the House conferees had a number of amendments to suggest to the Senate bill. These amendments were carefully considered by the Senate conferees and were agreed to in those cases where the amendment improved the Senate bill without drastically changing its basic approach.

The following amendments were agreed to by the Senate conferees:

MEDICAL INFORMATION

The Senate conferees agreed to a House amendment specifically exempting medical information from the disclosure requirements of the legislation when such information is obtained from licensed physians or medical practitioners, hospitals, clinics, or other medical or medically related facilities. Credit reporting agencies would not be required to disclose such information to consumers in order to safeguard and protect the traditional relationship between the doctor supplying the information and his patient.

RETENTION OF OBSOLETE INFORMATION

The Senate bill prohibited a reporting agency from reporting information on an account placed for collection or charged off as a loss if the information was older than 7 years or until the governing statute of limitations expired, whichever was the longer period. The House conferees argued that such information should not be reported if it is older than 7 years regardless of the governing statute of limitations. Since the consumer should not be indefinitely burdened with an adverse credit rating, the Senate conferees agreed to accept the House amendment.

The Senate bill also prohibited the reporting of adverse information older than 7 years or 14 years in the case of bankruptcies unless such information was needed in connection with a life insurance policy in excess of $25,000. The House conferees felt this limitation should be increased to $50,000 in view of the substantial number of policies between the $25,000 to $50,000 range. The Senate conferees agreed to accept this House amendment.

PROCEDURES TO INSURE ACCURACY

The Senate bill required reporting agencies who prepared investigative reports to follow reasonable procedures to assure the maximum possible accuracy of such report. The House conferees felt that this requirement should be extended to all reporting agencies, whether they prepared investigative reports or conventional credit reports. The Senate conferees felt that this was a reasonable requirement and accepted the House amendment.

SOURCES OF INVESTIGATIVE INFORMATION

The Senate bill required consumer reporting agencies to disclose the nature and substance of all of the information in a consumer's file to the consumer except for the sources of such information if used in an investigative type report. The House conferees felt that it was necessary to give consumers a specific statutory right to acquire such information on sources under appropriate discovery procedures in connection with any action brought under the act. This may be the only way in which the consumer can effectively refute allegations made in an investigative report. Accordingly, the Senate conferees agreed to accept this House amendment.

DISCLOSURE BY USERS OF CREDIT REPORTS

Under the Senate bill, if a consumer were rejected for credit, insurance, or employment either wholly or partly on the basis of a credit report, he would have to be given the name and address of the credit reporting agency if he made a written request to obtain such information. His right to make such a request was to have been communicated to the consumer by the user of the report at the time the consumer is rejected for credit, insurance, or employment.

The House conferees took the position that the consumer should not be required to make a written request to learn the identity of a credit reporting agency responsible for making an adverse credit report. It was argued that many consumers would neglect to make such a request out of fear or ignorance

The Senate conferees agreed to accept this House amendment. The rights given the consumer to review the information in his credit file are thus made more meaningful by this improved disclosure procedure.

PUNITIVE DAMAGES

The Senate bill permitted consumers to collect punitive damages in the case of any consumer reporting agency or user of information who willfully failed to comply with any provision of the act. These damages were limited to a minimum of $100 and a maximum of $1,000.

The Senate conferees agreed to an amendment suggested by the House conferees to delete the $100 floor and $1,000 ceiling on punitive damages and permit the court to fix the amount of such damages. A similar position was taken by the President's Assistant for Consumer Affairs.

NEGLIGENT FAILURE TO COMPLY WITH ACT

The Senate bill also permitted consumers to bring civil actions against reporting agencies or users of information who were grossly negligent in failing to comply with any requirement imposed by the act. The House conferees argued that it was exceedingly difficult to prove gross negligence and that reporting agencies should be held to a standard of ordinary negligence in following the requirements imposed by the act.

The Senate conferees agreed to the House amendment in order to provide a greater incentive for reporting agencies and users of information to comply with the various provisions of the act.

Thus, for example, if a reporting agency fails to follow reasonable procedures to assure the maximum possible accuracy of information in a credit report and is negligent in so doing, a consumer has a right to bring a civil action to recover any actual damages sustained.

JURISDICTION OF COURTS

The Senate bill permitted consumers to bring civil actions in any appropriate U.S. District Court. The House conferees suggested the authority to bring actions in Federal Courts be provided without regard to the amount at controversy in order to provide consumers with the most effective remedy possible.

The House also suggested a modification to a Senate requirement that a civil action be brought within 2 years from the date of the occurrence of any violation of the act. The House conferees suggested that where a defendant has materially misrepresented any information required to be disclosed and the information so misrepresented is material to establishing the defendant's liability, the action may be brought by a consumer within 2 years after the discovery of the misrepresentation.

The House amendments give the consumer a more effective legal remedy against potential violations and were accordingly agreed to by the Senate conferees.

UNAUTHORIZED DISCLOSURES BY OFFICERS OR EMPLOYEES OF REPORTING AGENCIES

The Senate bill made it a Federal crime for any person to knowingly or willfully obtain information from a consumer reporting agency under false pretenses. The House suggested that similar criminal penalties be provided with respect to any officer or employee of a consumer reporting agency who knowingly and willfully makes an unauthorized disclosure.

This amendment is intended to further safeguard the confidentiality of information in a reporting agency files and was accordingly agreed to by the Senate conferees.

DEFINITION OF CONSUMER REPORTING AGENCY

Mr. President, the statement of managers on the part of the House indicates that the House conferees "also intend that the definition of 'consumer reporting agency' not include insured financial institutions whose lending officers merely relate information about an individual with whom they have direct financial transactions." This interpretation by the House conferees was never discussed within the conference committee. It needs additional clarification to insure that the intent of the legislation is not misinterpreted by the courts or the Federal Trade Commission. The Senate bill as agreed to by the conference committee defines a consumer report under section 603(d). However, the term does not include any report containing information solely as to transactions or experiences between the consumer and the person making the report. Thus, if a bank lending officer provided information about its transactions with one of its customers to another bank or to a credit reporting agency such a communication would not be considered to be a consumer report as defined under section 603(d).

The definition of a consumer reporting agency under section 603(f) refers to any persons who make consumer reports to third parties. Thus, under the bill passed by the Senate and agreed to by the conference committee, a creditor cannot be a consumer reporting agency by virtue of making reports which do not meet the definition of "consumer report." Thus, the statement by the House conferees would seem to add nothing to the clear wording of the statute. It could be somewhat confusing, however, since the exemption stated by the House conferees apppears to exempt only insured financial institutions from the definition of "consumer reporting agency" whose lending officers merely related information about one of their customers with whom they have had direct financial transactions. If such a report did not meet the definition of a consumer report as defined under section 603(d), no person making such a report would be considered to be a "consumer reporting agency" regardless of whether or not they were an insured financial institution.

On the other hand, if a bank or other insured financial institution made a report consisting of information about an individual with whom they have had direct financial transactions and part or all of the information pertained to transactions or experiences which were not between such bank or other financial institution and the person on whom the report was made, then such bank or institution would, in fact, be making a consumer report as defined under section 603(d) and would thus become a consumer reporting agency as defined under section 603(f).

The statement of managers on the part of the House also indicated that the House conferees intend that the definition of "consumer credit report" not include protective bulletins issued by local hotel and motel associations, and circulated only to its members dealing solely of transactions between members of the association and persons named in the report. Once again, this interpretation was never discussed in the conference committee and needs additional clarification. To the extent that a local hotel or motel association compiles credit or other information from its members and makes such information available to its members, it is making consumer reports as defined under section 603(d) and is acting as a consumer reporting agency as defined under section 603(f).

SUMMARY OF FAIR CREDIT REPORTING BILL

The purposes of the Fair Credit Reporting Act are to give consumers a chance to correct inaccurate information in their credit file; to preserve the confidentiality of such information; and to prevent undue invasions of the individual's right to privacy.

The act covers all reporting on consumers, whether it be for the purpose of obtaining credit, insurance, or employment. However, credit reports or other reports on business firms are excluded.

As reported by the conferees, the following consumer rights would be secured by the act:

First. To be told the reasons for a credit, insurance or employment turndown when a credit report was a factor and to be given the name and address of the reporting agency.

Second. To be informed of the nature and substance of all information in his credit file by the credit reporting agency.

Third. To have another person with him at the reporting agency when his file is discussed.

Fourth. To be told who has received reports on him during the proceeding 6 months for credit or insurance purposes and the preceeding 2 years for employment purposes.

Fifth. To have inaccurate or unverifiable information deleted from his file.

Sixth. To have the information in his file reinvestigated whenever he disputes its accuracy.

Seventh. To file a brief explanatory statement on disputed items and to have the statement included on subsequent reports.

Eighth. To have the information in his file kept confidential and used only for legitimate business purposes.

Ninth. To have personal information in his file kept from governmental agencies unless ordered by a court.

Tenth. To be informed if adverse public record information is reported for employment purposes when such information cannot be kept up to date.

Eleventh. To have adverse information deleted from his file after 7 years or after 14 years in the case of bankruptcies.

By whom?

Twelfth. To be informed of the scope and nature of investigative-type reports into his personal life.

Thirteenth. To have adverse information on investigative-type reports reverified before it can be used again.

Fourteenth. To bring civil actions against credit reporting agencies and collect actual damages plus attorney's fees if the agency is negligent in reporting inaccurate information.

Mr. President, I believe the amendments suggested by the House conferees will perfect and improve the provisions of the Fair Credit Reporting Act passed by the Senate last November. In view of the growing importance of credit information in our economy, we must give consumers a higher degree of protection against the consequences of an inaccurate or misleading credit report.

Millions of American consumers are affected by the credit reporting industry. While credit reporting agencies have generally discharged their functions adequately, in some cases individuals have been irreparably damaged by inaccurate credit reports.

The Fair Credit Reporting Act will for the first time give consumers a right under Federal law to obtain access to their credit file and correct any inaccurate or misleading information. I am hopeful that this legislation can be signed into law this year and that it will be vigorously enforced by the Federal Trade Commission which is assigned enforcement duties.

Mr. President, I hope the Senate adopts the conference report.

Mr. BENNETT. Mr. President, on last Tuesday, October 6, 1970, conferees of the House and Senate met together to work out the differences between the Senate and House versions of H.R. 15073. In general, the conference was very successful and we retained most of the Senate provisions dealing with bank secrecy, credit cards, and credit reporting agencies. Yesterday, the House filed the conference report and the statement of managers on the part of the House. The statement for the most part was accurate in its description of the intent of the conferees and the action taken in the conference. However, there are several statements in the report which I believe do not clearly represent the action of the conferees or the intent of the language approved by the conference committee.

The first of these deals with the authority granted to the Secretary of the Treasury in determining records to be kept by financial institutions. In the Senate, we amended the House bill which was unclear, to assure that no records would be required unless the Secretary of the Treasury determined that they would have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. In amending the bill, however, we drafted it in such a way that it appeared to leave the congressional intent to the Secretary of the Treasury's determination also. The conference committee amended the Senate version by clearly establishing the purpose of the legislation as requiring the "maintenance of appropriate types of records by insured banks in the United States where such records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings." The determination of which records have such a degree of usefulness and the determination of records or other evidence to be kept by financial institutions was left, however, entirely to the Secretary of the Treasury. In other words, no change was made by the conference to the Senate bill which would in any way decrease the authority of the Secretary of the Treasury to determine the appropriate types of records to be maintained by financial institutions.

The statement of managers on the part of the House also seems to try to legislate further in title VII containing provisions relating to credit reporting agencies. The conference report states that:

> The House Conferees also intend that the definitions of "consumer reporting agency" not include insured financial institutions whose lending officers merely relate information about an individual with whom they have had direct financial transactions.

While I may agree entirely with the desirability of such an interpretation, it is not appropriate to state that the Senate bill or the conference report was intended to have an interpretation this broad. Since no amendment was offered or accepted, the Senate bill was not changed so far as the definition of "consumer reporting agency" is concerned.

During our discussions in the Senate, the problem which could be created by this legislation for the transfer of information between correspondent banks was discussed very thoroughly. It was my position that correspondent banks should be allowed to transfer information on their customers to banks with which they had a correspondent relationship without being considered a consumer reporting agency or the information being considered a consumer report. It was argued, however, that if a complete exemption were granted, banks could in effect establish consumer reporting agencies without being subject to the same restrictions which would govern the activities of other consumer reporting agencies not affiliated with a bank.

I believe that the Senate bill language which was not altered in the conference report authorizes banks as well as other institutions to provide information to third parties so long as that information deals only with their transactions with individuals who are their customers. In other words, a bank or a retail establishment could provide information to a third party on which a credit judgment could be made so long as information was not included dealing with transactions other than those with the bank or other institution providing the information and such information would not be considered a consumer report nor would the transfer of such information make the transferring institution a credit reporting agency. The language in the statement of managers on the part of the House would seem to expand this authority to include any information which the reporting firm might have in its files on a person with whom it had direct financial transactions. The intent of the legislation is not to broaden it to that extent.

The House managers' statement also states:

> Your conferees also intend that the definition of "consumer credit report" not include protective bulletins issued by local hotel and motel associations, and circulated only to their members, dealing solely with transactions between members of the associations and persons named in the report.

The House conferees may have had such an intent, but it was not brought to our attention in the conference committee. Indeed, I believe that such protective bulletins should not be considered to be consumer credit reports and thus be subject to all of the restrictions contained in this title of the bill. Many of the provisions in this bill have made it more difficult for those who desire information on the basis of which to grant credit or insurance or employment to receive such information. There is no doubt that this title will result in restricting the amount of information which is available on which to make such decisions. In our attempt to protect consumers from improper information, we have added burdens and expense which will ultimately be paid for by consumers. To restrict an association from providing information to its own members on individuals who have not paid their motel or hotel bill or who have paid such bills with a check which is dishonored seems to be absurd. Such bulletins can, under the bill as I interpret it, be circulated within the various branches of a nationwide chain without any difficulty and without any restrictions. It appears only reasonable, therefore, that an association of independent firms should be able to have the same degree of protection against fraudulent transactions without being subject to all of the expensive disclosure and compliance procedures which are contained in this title.

While I am discussing compliance procedures, I would like to refer to another improper statement made by the managers on the part of the House. In the conference committee, we accepted a House amendment which added the requirement that consumer reporting agencies must "follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates." The entire explanation of this amendment by the House was:

> This language is basically the last sentence of section 614, making it a duty for all consumer reporting agencies to follow reasonable procedures to assure accuracy in their reporting.

The Senate report discussing section 614 states simply:

> Those who make investigative reports must follow procedures to assure maximum possible accuracy. The Statement of the House Managers now comes up with the intent of this section as being:
>
> "The House Conferees intend that this requirement shall include the duty to differentiate between types of individual bankruptcies (e.g., between straight bankruptcies and Chapter XIII wage earner plans), and that the disposition of a wage earner plan where the consumer conscientiously carries out his responsibilities under it should be duly noted."

No such requirement was ever mentioned in the conference nor was there any indication that any conferee intended the amendment to include this type of requirement.

There is absolutely no basis or justification for the statement by House managers that would require differentiation between types of bankruptcies or notations regarding the conscientiousness of consumers.

In the following paragraph of the statement of managers on the part of the House, the managers discuss an amendment which was offered by a House Member but which was rejected by the conference committee. The explanation of the amendment given by the Member who offered it was:

> In order for the consumer to rectify any errors in his report, it is essential that he see the information in his file rather than "the nature and substance of the information." This does not mean that the consumer will be able to physically handle the file, but merely see the information in it.

As I stated earlier, this amendment was rejected by the conferees. The House conference report now says that:

> The Senate Conferees did not agree to this amendment, contending that the existing language already accomplished this result. The Conferees of both Houses intend that this important provision be so interpreted.

I would like to state that the Senate conferees did not contend that the existing language accomplish the result of the amendment. In fact, the Senate conferees stated that they did not want any change in the Senate language nor did Members of the Senate during the conference session interpret what the language in the Senate bill was intended to mean. Since the exact Senate language was retained and since there was no discussion as to what the language was intended to mean, it means just what it says. If any additional interpretation is desired, it can be received from the Senate report dealing with section 609, from which I quote:

> This section requires reporting agencies to disclose, at the request of a consumer, the nature and substance of all information in the consumer's file, the sources of the information, unless it is an investigative report, and the persons who have received reports on the consumer during the past 6 months for credit or insurance purposes and the past 2 years for employment purposes.

Since the House did not bring a credit reporting bill to the conference and since the only bill on which we were conferring was the Senate bill, any amendments requiring additional information or more stringent procedures by credit reporting agencies should literally be outside of the bounds of the conference. An interpretation by the House conferees of the meaning of Senate provisions which were not amended is inappropriate and has no basis.

Interpretations of amendments accepted by the Senate in conference cannot properly be expanded to mean other than the meaning discussed and agreed to by the conferees in the conference.

Mr. President, I regret that it has been necessary for me to make this statement to clarify the legislative history and intent of the conference report on H.R. 15073.

Having made such a clarification, I support the report and recommend that it be approved by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

The House of Representatives considered and approved the conference report on October 13, 1970. Following are excerpts of those proceedings.

CONFERENCE REPORT ON H.R. 15073, BANK RECORDS AND FOREIGN TRANSACTIONS; CREDIT CARDS; CONSUMER CREDIT REPORTING

Mrs. SULLIVAN. Mr. Speaker, I call up the conference report on the bill (H.R. 15073) to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in the U.S. currency be reported to the Department of the Treasury, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 3, 1970.)

Mrs. SULLIVAN (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

Mrs. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

(Mrs. SULLIVAN asked and was given permission to revise and extend her remarks.)

Mrs. SULLIVAN. Mr. Speaker, H.R. 15073 as agreed upon in conference retains all of the major features of the House-passed bill of the same number dealing with the use of secret foreign bank accounts or the transfer of funds abroad for the purpose of evading or violating U.S. laws. The House bill has been strengthened in several respects by Senate amendments the House conferees accepted or succeeded in modifying. The first four titles of the conference bill are aimed at organized crime and at "white collar" crime involving schemes to hide funds abroad for the purpose of defrauding Federal or State governments on taxes, or to circumvent the securities laws or other statutes. Together, the first four titles of the conference bill constitute an important weapon to be available to our Government in tracing criminal practices which have heretofore been largely safe from U.S. prosecution because of the secrecy which surrounds banking practices in some other countries.

SECRET FOREIGN BANKING TRANSACTIONS SPOTLIGHTED BY CHAIRMAN PATMAN

The major credit for this legislative accomplishment belongs to the chairman of the House Committee on Banking and Currency, the Honorable WRIGHT PATMAN, who uncovered some of the scandals in secret banking abroad, instigated an intensive committee investigation into this matter and came forward with the legislative proposals which were passed in somewhat different form in both Houses and have now been brought into conformance by this conference bill. Upon enactment, titles I through IV of H.R. 15073 will give to the Justice Department and to the Treasury Department tools they do not presently have, but which are urgently needed, to combat criminal conspiracies which have used secret havens abroad for billions of dollars of stolen funds, or funds on which U.S. taxes were not paid. These moneys have often been used to make more money in the United States, through other illegal means, or to infiltrate legitimate business behind a foreign front.

As originally passed by the House, H.R. 15073 dealt only with transactions of U.S. nationals and U.S. financial institutions in other countries. As passed by the Senate, however, it contained three new titles consisting of three separate bills previously passed by the Senate. One such title consisted of a mass transit bill, another was a credit card bill, and the third a bill dealing with credit reporting bureaus.

The mass transit title was eliminated in conference because by the time H.R. 15073 went to conference both Houses had completed action on a separate mass transit bill. The other two titles added by the Senate necessarily had to be considered as part of the conference deliberations. Both new titles were subsequently agreed to in conference after modifications or improvements proposed by the House conferees.

The final version of the bill, the conference substitute, now represents, in my opinion, a victory for the people of the United States as citizens, as taxpayers, and as consumers. It also contains appropriate safeguards for legitimate business, while striking powerful blows at criminal business elements, the so-called white collar criminal, whose depredations are often in the millions.

MAJOR ACHIEVEMENTS OF CONFERENCE BILL

Let me list briefly, Mr. Speaker, the major accomplishments of H.R. 15073 as agreed to in conference.

First. It provides a mechanism by which the law enforcement agencies of this country can investigate the legitimacy of funds sent abroad and uncover illegal transactions, by requiring the maintenance by insured banks of records on all transactions involving transfers of money out of the country, and by authorizing the Secretary of the Treasury to require reports from individuals on currency and foreign transactions. These provisions will save the Department of Justice and the Treasury Department vast amounts of time, effort and money in digging into the ramifications of foreign transactions which involve violations of American law, and make prosecution more feasible. Without the tools this bill will now provide, our enforcement agencies have faced an almost impossible task in tracing funds out of and back into the country of violation of our laws.

Second. It closes a gaping loophole in our securities laws dealing with the regulation of margins in stock transactions. As the hearings disclosed, money illegally sent abroad has often been used to invest in stocks, or to manipulate stocks, without regard to margin requirements, by borrowing the funds abroad, frequently having the foreign bank purchase the stock in its own name rather than in the name of the individual trader.

Third. It protects consumers from the worrisome and often expensive consequences of being sent credit cards they do not want and which they have no intention of using. It establishes, for the first time, a limit of liability of $50 for the unauthorized use of a credit card, while making it a Federal crime to traffic in or use stolen credit cards for purchases of $5,000 or more. The conference bill endorses and writes into law restrictions now being imposed by the Federal Trade Commission on the distribution of unsolicited credit cards and applies this prohibition to all credit card issuers, including banks, airlines, and other issuers which may or may not—interpretations have varied—have been covered by the FTC trade rule.

Fourth. It provides consumers, also for the first time, with statutory rights to find out what material of a personal or financial nature has been circulated about them by credit reporting bureaus which may have been a factor in the rejection of an application for insurance, employment, or consumer or real estate credit. Furthermore, it obligates credit reporting bureaus to protect the confidentiality of such information, to establish and maintain proper procedures for assuring maximum accuracy of the information, to correct demonstrated inaccuracies, to eliminate obsolete material, and otherwise to operate their businesses in a responsible manner commensurate with the intimate nature of the personal data on individual consumers

where it came from. And we succeeded in making the reporting firms lable for damages for harm done by the firm's own negligence. Also there is now no limit on the punitive damages which a court could assess under the amended bill. The Senate bill had limited such damages to $1,000.

Employees of credit reporting firms who willfully violate the provisions of the bill dealing with the required confidentiality of information in the files are made liable for their acts, under another House amendment.

We also succeeded in giving the full protection of the bill to individuals applying for up to $50,000 of life insurance, instead of the $25,000 limit set in the Senate bill. This relates to the removal of data in their files which is more than 7 years old—other than medical information. The difference is more important than a mere dollar distinction, since the hearings revealed that there are few requests for insurance investigations where less than $25,000 is involved. Thus, our amendment has made this provision have some meaning, in practice, rather than have meaning in theory only.

FINAL RESULT A USEFUL MEASURE

There were other changes made to the Senate-passed bill at the suggestion of the House conferees to tighten up the consumer protections, but it is not, as I said, as strong a bill as a majority of the House conferees tried to make it. In view of the situation which had developed in the House subcommittee, where we failed twice to get a quorum to act on our own bill, and in view of the plans of the Congress to recess this week until after election, the House and Senate Members interested in having strong legislation enacted to protect consumers' good names in the data banks and computerized credit bureaus now developing intimate personal and financial data on millions of Americans, felt this bill, as agreed to in conference, would do enough real good to make it worthwhile passing in this form.

DIFFERENCES BETWEEN HOUSE AND SENATE VERSIONS

The important differences between House and Senate versions of H.R. 15073 as compromised in conference, and which are outlined in the statement of the managers on the part of the House, are further explained as follows:

TITLE VI—CREDIT REPORTING

Title VI of the conference bill amends the Consumer Credit Protection Act by adding at the end of that act a new title VI dealing with consumer credit reporting.

The purpose of the fair credit reporting bill is to protect consumers from inaccurate or arbitrary information in a consumer report, which is used as a factor in determining an individual's eligibility for credit, insurance or employment. It does not apply to reports utilized for business, commercial, or professional purposes.

The new title attempts to balance the need by those who extend credit, insurance or employment to know the facts necessary to make a sound decision, and the consumer's right to know of adverse information being disseminated about him, and the right to correct any erroneous information so disseminated. The requirements of the legislation permit the free flow of information about a consumer, while providing the consumer at the same time the ability to rectify any errors causing his unwarranted difficulties.

The new title will protect the consumer from inaccurate reports, but our amendments seeking to protect individual privacy were rejected by the conferees from the other body. Thus, this bill will not adequately, in my opinion, prtoect the right to privacy of our citizens. H.R. 16340 and H.R. 19403 would have offered such provisions to protect privacy. I hope the new law can be amended in the next Congress to protect this invaluable right more effectively.

Nevertheless, while the conferees did not adopt a number of important amendments put forth by the House conferees, it is my opinion that the bill as reported will accomplish its intended result. The major provisions of this title are as follows.

NOTIFICATION OF EXISTENCE OF FILE

First, the consumer is given the right to be told of the name and address of the consumer reporting agency when he is rejected for credit, insurance or employment at the time of such denial. In this manner, the individual would be made aware of the existence of any adverse information and could avail himself of the right of access to the information in his file. The House conferees attempted to add a provision requiring consumer reporting agencies to notify an individual of the existence of a file on him the first time a request is made for a consumer report after the effective date of the act, so as to provide an opportunity to examine, and correct if necessary, any erroneous information before any damage to him occurs. Regrettably, this amendment was not adopted.

ACCESS TO INFORMATION IN A CREDIT FILE

Second, the consumer is given free access to examine the nature and substance of the information in his file at the consumer reporting agency. All information should be available to him, with the exception of the sources of investigative information which can only be obtained through the appropriate discovery procedures of the court in which an action is brought to enforce compliance with the act. The term "nature and substance of all information" was discussed by the conferees, and it was agreed that the only prohibition intended by the term was to limit the individual from physically handling his file.

In view of statements in the CONGRESSIONAL RECORD in connection with the other body's consideration of the conference report that "nature and substance" is supposed to mean just what it says, and that the clarifying views in the statements of the managers on the part of the House goes beyond the understanding of one of the Senate conferees in interpreting this language, I want to stress that when we offered our amendment to strike the words in question, we were informed that the words "nature and substance" were necessary in order to make clear that the actual file itself, with identification of sources of investigative information, was not to be required to be made available. This was in conformance with the House conferees' position, that the file itself did not have to be turned over to the consumer.

At the same time, since the words "nature and substance" have no legal definition, we stressed that the consumer should have access to all information in any form which would be relayed to a prospective employer, insurer or creditor in making a judgment as to the worthiness of the individual's application for such benefits.

Despite the claimed uncertainty as to the conferees' intent, which they have resulted from the fact that this item was the last matter to be disposed of in a conference which had begun at 10:30 a.m. and continued with frequent interruptions until 5:30 p.m., and covered scores of points in controversy, it is the firm opinion of the House conferees that there was agreement that "nature and substance" means all information in the file relevant to a prudent businessman's judgment in reviewing an individual's application for credit, insurance or employment, other than material clearly excluded, such as the sources of investigative information. It is not intended that the credit reporting firm should have a free hand in excluding from the consumer's access information other than medical information it just does not want to give him, but will give to a client-user.

Thus, if a credit reporting agency intends to relay to a prospective insurer charges that the individual "uses marihuana"—an automatic reason for turndown by some insurance companies—it would not meet the requirements of this section for the reporting agency to allow the individual to know only that the file shows "traits of moral laxity" or something of that nature.

REINVESTIGATION OF DISPUTED ENTRIES

The bill also contains the requirement on the consumer reporting agencies to reinvestigate disputed items of information and correct if found inaccurate. If the dispute is not resolved, the reporting agency must note the existence of the dispute and enclose a brief statement of the consumer's explanation regarding the dispute.

ADVANCE NOTIFICATION OF TYPE OF INVESTIGATION TO BE MADE

Fourth, the bill requires those entities who procure or prepare investigative reports which deal with highly sensitive and personal information to inform the consumer before the investigation is begun of the nature of such an investigation. Upon request, the agency must furnish more detailed information, a "complete and accurate disclosure of the nature and scope of the investigation requested." Just as disclosure of the "nature and substance" of all information in the files means disclosure of all information in the files but without physical handling of the files, so also disclosure of the "nature and scope" of the investigation means disclosure of all the items or questions which the investigation will cover. The best method of meeting this

criterion is for the agency to give the consumer a blank copy of any standardized form used. In addition, adverse investigative information must be reverified before it is included in a subsequent report.

CARE AND ACCURACY

Also, there is the general requirement that consumer reporting agencies must maintain reasonable procedures to assure that recipients of the reports are authorized to receive them. These procedures must also be maintained to assure maximum possible accuracy of all consumer reports.

ELIMINATION OF OBSOLETE DATA

The bill also requires the discarding of information after a certain number of years. The industry has recognized this problem and the bill makes it mandatory on all agencies to follow these practices.

ADVERSE PUBLIC RECORD INFORMATION

Reporting agencies must also notify the consumer when adverse public record information, such as suits, tax liens, arrests, indictments, convictions, bankruptcies, judgments, and the like, are being reported to a potential employer. In lieu of this requirement, reporting agencies must maintain strict procedures to verify the current status of such public record items.

OBTAINING INFORMATION IN A FILE BY FALSE PRETENSE

Criminal penalties for obtaining information from consumer reporting agencies under false pretenses and unauthorized disclosure of information by officers and employees of those agencies are included in the bill.

LEGAL RECOURSE

The private enforcement provisions permit the consumer to sue for willful noncompliance with the act with no ceiling on the amount of punitive damages. The consumer may also sue for ordinary acts of negligence resulting in actual damage to him. Attorney's fees, as determined by the court, will be allowed for both forms of action. A 2-year statute of limitations from the date liability arises is provided, except that where the defendant has willfully misrepresented information material to the establishment of defendant's liability, the statute does not begin to run until discovery of such a misrepresentation.

Suit may be brought in any appropriate U.S. district court without regard to the amount in controversy, or other court of competent jurisdiction.

The bill bars defamation and invasion of privacy suits against an agency, but only if the individual bases his suit on the information disclosed under the act. If the individual uses information obtained through independent sources, whether he has also obtained disclosures under the act or not, he may of course bring any action allowed by common law or statute. It is not intended that the bill grant any immunity to an agency from such suits by individuals whenever the agency has furnished information under this act. In my opinion, this is made clear by the discussion in the Senate committee report.

ENFORCEMENT BY FEDERAL TRADE COMMISSION

Compliance is further enforced by the Federal Trade Commission with respect to consumer reporting agencies and users of reports who are not regulated by another Federal agency. The Federal Trade Commission can use the cease-and-desist authorities and other procedural, investigative and enforcement powers which it has under the FTC Act to secure compliance. Compliance on the part of financial institutions or common carriers regulated by another Federal agency would be enforced by that agency, using its existing enforcement authorities to bring about compliance.

While the conferees did not agree to the House amendment to give the Federal Trade Commission the authority to issue regulations, it is strongly urged that the FTC employ their existing regulatory authority to the greatest possible extent to assure wide-scale compliance with the act.

INCONSISTENT STATE LAWS

State laws which are inconsistent with the Federal law would be preempted only to the extent of the inconsistency. No State law, however, would be preempted unless compliance with that law would entail a violation of Federal law. In short, State laws requiring additional duties should not be affected by the passage of this law.

PRIVILEGE TO SERVE AS CONFERENCE CHAIRMAN

Mr. Speaker, it was a privilege and honor for me to serve as chairman of the conference committee during the second half of our deliberations, after Congressman PATMAN, who had previously served as chairman, was required to be absent.

A conference committee has been described as a third House of Congress, because of the wide latitude it possesses in seeking to compromise highly controversial or highly technical issues in dispute between the two Houses. The responsibilities which go with this latitude are serious, and I think all of us were aware of them.

I want to pay tribute to the fine work done on this legislation by the Senate conferees as well as by the House Members who served on this conference. Just as Congressman PATMAN deserves the greatest share of the credit for the bank transactions and recordkeeping provisions of the original bill and for the improvements made in conference, so Senator PROXMIRE of Wisconsin, can take great pride in the credit card and credit reporting features for it was on his initiative that these measures first passed the Senate and were later incorporated in this bill.

I ask approval of the conference report.

Mr. BOW. Mr. Speaker, will the gentlewoman yield?

Mrs. SULLIVAN. I yield to the gentleman from Ohio.

Mr. BOW. I should like to ask a question for clarification, if I may. Title VII of the bill, relating to credit reporting agencies, was originally passed by the Senate as a separate bill, S. 823. In reporting that bill, the Senate Committee on Banking and Currency described the bill as covering "reports on consumers when used for obtaining credit, insurance or employment" and expressly stated that it "does not cover business credit reports or business insurance reports." Since we do not have a report from the House committee, and since the conference report does not mention this exclusion, I would like to inquire if the intent of the present bill is the same—that is, to exclude business reports from its coverage.

I read from the Senate report:

> The bill covers reports on consumers when used for obtaining credit, insurance or employment. However, the bill does not cover business credit reports or business insurance reports.

Does the gentlewoman agree that we do exclude from this bill business reports from its coverage?

Mrs. SULLIVAN. I am happy to inform the gentleman that that is exactly my understanding and our understanding of the bill. Business reports are not included.

Mr. BOW. Are not included?

Mrs. SULLIVAN. That is correct. Insofar as reports of a business nature are concerned, this point was raised continually in our hearings on H.R. 16340 in the Subcommittee on Consumer Affairs, and I think we always made clear that we were not interested in extending this law to credit reports for business credit or business insurance. The conference bill spells this out, furthermore, in section 603(d), which defines a "consumer report" as a report, and so on, "which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes" and so forth.

Mr. BOW. Would the gentlewoman permit the gentleman from New Jersey also to respond so that we can have complete clarification of congressional intent?

Mrs. SULLIVAN. I am happy to yield to the gentleman from New Jersey.

Mr. WIDNALL. I thank the gentlewoman for yielding to me. The answer is the same. There is no intention to include business reports.

Mr. BOW. I thank the gentlewoman for yielding and for her response.

Mr. WIDNALL. Mr. Speaker, will the gentlewoman yield?

Mrs. SULLIVAN. I yield such time as he may require to the gentleman from New Jersey (Mr. WIDNALL).

Mr. WIDNALL. Mr. Speaker, I want to point out that the House conferees were not unanimous in concurring in the conference report on H.R. 15073. Our failure to concur does not relate so much to dissatisfaction with the legislation as to the means by which it has been brought before us. The only reason I am not going to oppose the acceptance of the conference report is that the lateness of the session makes it unlikely that the needed provisions could be separately resolved. In addition, I recognize as a result of the passage of the congressional reorganization bill the other body's tendency to attach nongermane amendments to our bills will be minimized.

Titles I through IV of H.R. 15073 deal with the problems occasioned by secret foreign bank accounts. The Senate amendments in which your conferees agreed represent an improvement in the bill. By compromising the language in the statement of purpose in title I we have made it clear that the Secretary of the Treasury will have discretion in determining which types of records will have a high degree of usefulness in criminal tax and regulatory investigations and proceedings. At the same time we have made it clear that Congress intends that he shall require the maintenance of microfilm or other appropriate records of those transactions which will be useful.

From both the public's point of view and the Government's this is a more practical approach than was originally embodied in H.R. 15073. With discretion to determine what records will be useful the Secretary can be selective and flexible. As conditions, or criminal practices, change he can alter the recordkeeping requirements. Banks on the other hand will not be required by an inflexible law to photocopy all records but only those which will be useful in criminal investigations or proceedings. For many this will reduce the cost of complying with the law and from the law enforcement officer's point of view it will materially reduce the number of records which must be reviewed during an investigation.

The House bill had an exemption from the photocopying requirement for all checks under $500. There was much objection to this exemption in some quarters on the basis that checks of under $500 had actually proved useful in some criminal investigations. This amendment has been dropped in view of the broad discretion given to the Secretary to determine what records will be useful plus an additional amendment granting the Secretary broad exemptive powers so long as exemptions granted do not counteract the purposes of the act.

Title II of the bill establishes authority to require certain records and reports of currency and foreign transactions. Amendments to the declaration of purpose to which your conferees agreed restore a proper perspective to this title. This is, after all, a bill designed to assist in the investigation and prosecution of criminal activities. The problems to which we addressed ourselves during its consideration were not related to the supervision of financial institutions nor the collection of statistics necessary for the formulation of monetary and economic policy. It was not the financial institutions which were at fault but those who utilized the various services of financial institutions to escape our laws. The problem lay in the fact that a lack of adequate records in financial institutions has hampered efforts to prosecute these people. The purpose of this title as now written is specifically directed to requiring reports and records which will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. I believe this is a major improvement.

Other amendments explained in the statement of managers are more technical than substantive but I am satisfied that in toto we have reached a favorable accord on this subject.

Title *V* prohibits the unsolicited mailing of credit cards. The House had previously passed a bill, H.R. 16542. The House bill also prohibited the unsolicited mailing of credit cards unless sent by registered mail under certain specified conditions which were set forth in the bill. During the conference we asked the Senate to accept this exception as an amendment to section 132 of the bill but it was rejected.

As indicated on page 20 of the conference report the House agreed to an amendment limiting Federal jurisdiction in cases involving fraudulent use of credit cards to those instances involving $5,000 or more.

Title VI contains the language of S. 823, the Fair Credit Reporting Act. Bills relating to this subject which have been before our committee for several months have proved so controversial that no concensus has been achieved, and hence no bill has been reported or acted upon. It is impossible to say whether the provisions of title VI would, or would not, have been acceptable had it been brought to the floor in the normal manner. All that can be said is that as presented here today it represents only a minor change from the bill originally passed in the other body last November, a bill which Mrs. Virginia Knauer endorsed in hearings before our committee. For this reason I am inclined to the conviction that it is adequate unto the moment as an initial attempt to assist consumers. However, I have not signed the conference report because I will not support the enactment of such controversial legislation by a means that denies the committee and the House a free opportunity to work their will.

The problems raised by doing so are no better illustrated than by reviewing the other body's action this past Friday as it considered the conference report and the statement of our managers.

On page 28 of the conference report it says:

> Your conferees also intend that the definition of "consumer credit report" not include protective bulletins issued by local hotel and motel associations, and circulated only to their members, dealing solely with transactions between members of the associations and persons named in the report.

This language was included because evidence submitted to members of the Consumer Affairs Subcommittee disclosed that hotels and motels are plagued by people who skip without paying bills—or pay with checks that bounce. To protect themselves against such undesirable occupants they circulate their names, and sometimes their photos, among themselves. It would be impossible for hotels or motels to comply with requirements of the bill involving notices to these consumers because, for obvious reasons, they do not provide addresses where they can be located. To us it does not seem logical to restrict an honest businessman's efforts to protect himself against persons who are obviously dishonest. Hence the language in the report.

But last Friday as the other body debated the report the Senator from Wisconsin stated:

> To the extent that a local hotel or motel association compiles credit *or other* information from its members and makes such information available to its members, it is making consumer reports as defined under section 603(d) and is acting as a consumer reporting agency as defined under section 603(f).

On the other hand the Senator from Utah said:

> Such bulletins can, under the bill as I interpret it, be circulated within the various branches of a nationwide chain without any difficulty and without any restrictions.

How does anyone interpret congressional intent with this kind of a record? I do not believe there are many of us here in the House who would deliberately vote to restrict the dissemination of the names of known criminals yet as a result of bypassing our prescribed legislative procedures we are not certain what we are voting for in title VI of this bill. It is my sincere hope that the courts and enforcement agencies will interpret this bill in light of its real objectives as set forth in the statement of findings and purpose in section 602.

Mrs. SULLIVAN. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. WYLIE).

(Mr. WYLIE asked and was given permission to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, I thank the gentlewoman from Missouri for yielding.

Mr. Speaker, I am not opposed to the acceptance of the conference report on H.R. 15073, this is a motherhood bill. But, I would be remiss if I did not explain why I did not sign the conference report and to express dismay as to the way certain provisions were considered and, most especially, chapter VI, which deals with consumer credit reporting.

Chapter VI was added to the bill known as the secret Swiss bank account bill by the Senate as a nongermane amendment.

The House recently adopted a rule in the legislative reorganization bill that nongermane Senate amendments would need a two-thirds vote of the House for acceptance. The Senate agreed to this and it has now been sent to the President for signature. But, beyond that, this matter had been taken up in an executive session of the House Banking and Currency Committee and the committee instructed the chairman to object to the inclusion of what was, in reality, S. 823 as a nongermane amendment. Despite assurances to the contrary, I heard not one word of opposition to the consideration of title VI except those voiced by me. And this reveals the real power lodged in the other body. The procedure in the Currency Committee is a clear indication that the members of the Banking and Currency Committee were justified in their objection to the acceptance of title VI. As noted previously, title VI is essentially S. 823 passed by the other body last year and referred to our committee on November 12, 1969. On March 5 of this year, the gentle-

woman from Missouri, the chairman of our Consumer Affairs Subcommittee, introduced her own bill—H.R. 16340—and during March and April we held 6 days of hearings on these measures.

Those hearings were revealing in an interesting variety of ways. Let me point some of them out.

First, it was obvious that mistakes do occasionally occur in various types of credit reports, which mistakes are harmful to consumers in their efforts to obtain credit, insurance or employment.

Second, it was contended that many people who are so harmed are unaware of the fact that misinformation in a credit report has harmed them.

Third, it was clearly apparent that at least in a minimal number of instances, consumers who were aware of reports or that reports contained misinformation, found it difficult to impossible to find out the nature of information in reports being issued about them or to get misinformation corrected.

It is my judgment that on the basis of this information, our subcommittee was in agreement that legislation to correct these problems would be appropriate. On the other hand, the hearings also disclosed some other interesting facts.

First, is the fact that even among those complaining of abuses of the credit reporters, there was unqualified agreement that credit reporting services are essential to the conduct of business and commerce. It was obvious that most reports are accurate and facilitate the consumer's acquisition of credit, employment and insurance. To a significant number of our subcommittee, this fact suggested that any legislation should be carefully drawn so as not to impede this essential and helpful flow of credit information.

Second, we were made aware of the fact that an awesome variety of firms and techniques are employed for the exchange of what I have broadly categorized throughout these remarks as "credit information." This made it apparent beyond any doubt that great care had to be exercised to draw the legislation so that all those engaged in the dissemination of consumer credit reports relating to a consumer's eligibility for employment or credit and insurance for personal family or household use were covered under the legislation but that activities conducted by banks, for instance, for its own use, protective bulletins issued by local hotel and motel associations and circulated only to members, should not.

Between April 14 and August 6, the subcommittee met, formally or informally, in five executive sessions, considering S. 823, H.R. 16340, and a series of committee drafts in an attempt to reach agreement on a bill that would provide the consumer with the needed protections without disrupting the efficient flow of information. A draft dated August 17 was circulated to all groups which we knew to be affected because up until that time, there was no consensus in the subcommittee regarding the other bills before us. On the basis of the comments we received on this draft, we were able to draw up a bill which we thought met the need. I was pleased to introduce this as H.R. 19410 along with the gentleman from Pennsylvania (Mr. WILLIAMS), the gentleman from Georgia (Mr. STEPHENS), and the gentleman from California (Mr. HANNA). It was a truly bipartisan effort to stimulate agreement so this legislation could be moved ahead. I regret to say that it has not been possible to convene the subcommittee to consider this bill. The result was that we were required to go to conference to consider a measure which the subcommittee did not think was adequate—regarding a question on which the full House has never expressed a view. I am convinced we could have brought a better bill to the floor.

I take exception to that portion of the statement of managers entitled "Disclosure to Consumers." As a conferee it was not my intent that section 609(1) be interpreted to require the disclosure to a consumer of all information in his file. For example, we have specifically agreed that medical information as defined in the first House amendment should not be disclosed. In addition, it is clear from the definition of "consumer report," and it was certainly clear in all the discussions in our subcommittee meetings, that we were concerned about information which is used or expected to be used or collected in whole or in part for the purposes of serving as a factor in establishing the consumer's eligibility for credit or insurance to be used primarily for personal, family, or household purposes, or employment purposes. It is perfectly possible that certain firms may have information in their files which relates to business transactions, court proceedings, frauds or other matters which would not be used in consumer credit reports. It was not my intent, nor do I believe it was the intent of other members of the Consumer Affairs Subcommittee, to make any provisions of this legislation applicable to reports or information concerning anything other than employment or personal, family, or household uses. The managers, in making the statement in the report that it is to require disclosure of all information have done so without benefit of the committee's vote and contrary to what I judged to be its feeling.

In addition, the managers on the part of the House have suggested that the definition of a consumer credit reporting agency should not include insured financial institutions whose lending officers merely relate information about an individual with whom they have had direct financial transactions. The CONGRESSIONAL RECORD for October 9, during the consideration of the acceptance of the conference report by the Senate, indicates considerable confusion as far as the Senate conferees are concerned about this.

I refer to the language on page S. 17636 where Senator BENNETT said:

> During our discussions in the Senate, the problem which could be created by this legislation for the transfer of information between correspondent banks was discussed very thoroughly. It was my position that correspondent banks should be allowed to transfer information on their customers to banks with which they had a correspondent relationship without being considered a consumer reporting agency or the information being considered a consumer report. It was argued, however, that if a complete exemption were granted, banks could in effect establish consumer reporting agencies without being subject to the same restrictions which would govern the activities of other consumer reporting agencies not affiliated with a bank.

Additionally, it was never the intention of anybody in the Consumer Affairs Subcommittee to include the technical bulletins issued by local hotel and motel associations, and this intent is expressed in the statement of the managers on the part of the House. Again, the Senate conferees, in presenting the bill to the Senate expressed complete surprise at this language and acted as if they never heard of it. The point I am making is that this is not the proper way to legislate. The procedure of adding nongermane amendments available to the Senators should not be acceded to by the House without mention. I objected to taking up this bill until the House had acted but was obivous that the skids were greased and that the conferees on the other side of the aisle had already decided the outcome.

It is really unfortunate that we must legislate in a manner such as this which leaves so many questions unanswered. Be that as it may, the question of accepting the conference report is now before us. Inasmuch as there will probably be no bill on consumer credit reporting this year unless we accept the provisions of title VI, I reluctantly recommend acceptance of the report.

Mrs. SULLIVAN. Mr. Speaker, I must rise to correct a statement made by the gentleman from Ohio.

The Committee on Banking and Currency did not instruct its chairman to refuse to consider S. 323. Several members of the Committee on Banking and Currency did make observations concerning this legislation, and also the credit card title, but the Chair was not instructed nor, in fact, under the rules of the House could the membership of the Committee on Banking and Currency have instructed any of the conferees.

I have talked to members of the conference from the other body and a majority of the House conferees were convinced that if this matter were not considered in conference, there would be no conference bill at all. Therefore, the decision was made to go ahead with the conference and include the matter of credit bureaus and credit cards.

Mr. WYLIE. Mr. Speaker, will the distinguished gentlewoman yield on that point?

Mrs. SULLIVAN. Yes.

Mr. WYLIE. I would stand corrected. We did have discussion of it in the Committee on Banking and Currency in executive session and it was my impression that the Members felt the consumer credit reporting bill should be reported out by the full committee first. There was no formal action in committee, to be sure. I think the point was also made on the floor of the House that the consumer credit reporting bill should not be included in the conference because of the fact that it was added as a nongermane Senate amendment.

Mrs. SULLIVAN. I know that there were observations made by members of

the committee, I would say to the gentleman, but there were no instructions given.

Mr. WYLIE. I thank the gentlewoman.

Mrs. SULLIVAN. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. BROWN).

(Mr. BROWN of Michigan asked and was given permission to revise and extend his remarks.)

Mr. BROWN of Michigan. Mr. Speaker, I am sorry the Legislative Reorganization Act which we have passed will not be effective until January. If it were in effect today and we were afforded the opportunity of separate votes on the nongermane titles of this bill—H.R. 15073—I doubt seriously that title VI would pass. While most of us recognize the desirability of legislation establishing standards for consumer credit reporting and clear rights and privileges for consumers to protect themselves against the dissemination of misinformation, most of us who have studied this problem are aware of the deficiencies of the bill the other body is now ramming down our throats. Certainly, those of us who have worked closely with this legislation as members of the Consumer Affairs Subcommittee are aware of its shortcomings. I will go further and say that based on the discussions which took place within our subcommittee, we would have reported out a bill treating the problem much better than does the Senate bill.

As the gentleman from New Jersey has pointed out, there is considerable confusion about how this bill will be interpreted. The definitions are so vague that no one is certain what is included as a "consumer credit report" nor who or what is to be construed as a "consumer credit reporting agency." In the findings and purpose section—602(3)—of title VI, we find the statement:

> Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

On the basis of this, I assume that the other body shared the view which clearly prevailed in our subcommitttee that the exchange of information on consumers was desirable and necessary to the conduct of business and commerce. Yet, this very exchange is now to be jeopardized by vague legislative language. Neither Senators, Representatives, nor lawyers for affected businesses can agree what it means.

The colloquy which has just occurred on the floor between the gentleman from Ohio (Mr. BOW), the gentlewoman from Missouri (Mrs. SULLIVAN), and the gentleman from New Jersey (Mr. WIDNALL), is ample evidence of this confusion between the intent and what has been written in haste in the bill. Despite rules of interpretation, this Member would admonish all to resolve any questions of interpretation in favor of the intent expressed.

As an example of what "consumer reporting agency" as defined in the bill does not mean, the managers for the House included in the conference report on page 28 a statement regarding financial institutions. Senators from both sides of the aisle commented on the inclusion of the statement in the report but a close examination of their views in the RECORD of October 9, pages S17635 and S17636 leaves me with the conviction that there was no real objection to, or contradiction of, the meaning of this statement but merely to the fact that it was not discussed more fully by the conferees.

I think we are all agreed that when an institution or business, regardless of what it calls itself, be it a bank, a detective agency, credit bureau, merchants association, or what have you, regularly engages in the business or the practice of issuing credit reports on individuals, it should be construed as a credit reporting agency. On the other hand, there was ample evidence submitted to our subcommittee to justify, even dictate, exemption from the definition of consumer reporting agency of those businesses or institutions whose transmission of information relative to individuals is incidental to their regular activity and where the information transmitted is related to the relationships between that institution and the individual. To me this is what the report says. It is unfortunate that the language of the legislation is vague on this point, but notwithstanding the fact that the other body has objected to something in the report which may not have been discussed sufficiently in the conference, I find nothing in the discussion which has followed, to indicate any disagreement on the intent.

Mr. Speaker, I yield back the balance of my time.

Mrs. SULLIVAN. Mr. Speaker, I would like to inform the House that the Nixon administration not only favors this legislation but wanted, and testified before us in favor of, a stronger bill.

Such testimony was given at our hearings both by Mrs. Virginia Knauer, the President's Special Assistant for Consumer Affairs, and Mr. Weinberger who was then the Chairman of the Federal Trade Commission and is now a high ranking official of the administration in the successor agency to the Budget Bureau. They both supported H.R. 16340, Mrs. Knauer doing so specifically in behalf of the Nixon administration.

Mr. BROWN of Michigan. Mr. Speaker, will the gentlewoman yield?

Mrs. SULLIVAN. I am happy to yield to the gentleman.

Mr. BROWN of Michigan. I totally concur with the gentlewoman from Missouri. I think it was agreed in the subcommittee that the legislation was necessary. There have been abuses in the industry and I am sure the administration totally concurs with respect to the necessity for legislators.

I am not criticising the aim or intent. But, what I am criticising is the haste with which the language was adopted. Certainly, the Senate did not spend as much time on this legislation as you and I did. All I am saying is we could have had a better bill had the gentlewoman and the subcommittee had an opportunity to report one out.

Mrs. SULLIVAN. I will say that had we acted as we would rather have acted, we would have had a better and stronger bill. But we were faced either with accepting the two or three items that were put in the conference report or rejecting all of them.

Mr. WIDNALL. Mr. Speaker, will the gentlewoman yield?

Mrs. SULLIVAN. I am happy to yield to the gentleman.

Mr. WIDNALL. Mr. Speaker, I would like to compliment the gentlewoman from Missouri for the hard work that she has put in on the credit reporting section of this bill.

Actually, all members of the subcommittee worked many, many hours with the staff to try to develop a bill on our side, and because of their own sense of fairness and wanting to do a real job, I think that is what occasioned the delay in reporting one on our side.

Mrs. SULLIVAN. I thank the gentleman.

Mr. WYLIE. Mr. Speaker, will the gentlewoman yield?

Mrs. SULLIVAN. I am happy to yield to the gentleman.

Mr. WYLIE. Mr. Speaker, again I would be remiss if I did not associate myself with the remarks of the gentleman from New Jersey (Mr. WIDNALL) and compliment the gentlewoman from Missouri for her diligent, conscientious, arduous and hard work in attempting to bring a bill out of the subcommittee.

I want to say, I am in no sense being critical of what the gentlewoman from Missouri did so far as this bill is concerned.

Mrs. SULLIVAN. I thank the gentleman. All of the minority members of the Subcommittee on Consumer Affairs, including the gentleman from Ohio (Mr. WYLIE), the gentleman from Michigan (Mr. BROWN), and others, devoted a great deal of time to this issue and I deeply appreciated their interest. All of us on the subcommittee worked hard on it. But when the gentleman from Ohio indicated earlier that a bill be introduced in the final stages of our subcommittee work, H.R. 19410, represented a consensus bill, or an effective bill, I would have to disagree. Anyone wishing to compare that bill with the several bills I introduced, or with this final version of the legislation, would, I am sure, not imagine that H.R. 19410 would have been a more effective piece of legislation—that is, if we are talking about consumer protections.

Mr. Speaker, in view of the discussion about possible confusion over the statement of the managers on the part of the House accompanying the conference report as to the applicability, or nonapplicability, of the credit reporting title to insured financial institutions whose loan officers merely relate information about an individual with whom they have had direct financial transactions, I feel I should make this clarifying statement.

The comment in the report was not intended to give a blanket exemption to all credit reporting activities of insured financial institutions regardless of the circumstances. Obviously, a bank cannot establish a credit bureau as one of its departments and escape the coverage of this statute, as the bill itself makes clear.

GENERAL LEAVE TO EXTEND

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on the conference report just adopted.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.